

United States Bankruptcy Court
Eastern District Of New York

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In re Eric H. Richmond, Debtor

Case No. 1-14-41678-cec

Chapter 13

**NOTICE OF AMENDED CIVIL COVER
SHEET AND AMENDED NOTICE OF
APPEAL**

-----X
PLEASE TAKE NOTICE of the enclosed:


AMENDED CIVIL COVER SHEET

AMENDED NOTICE OF APPEAL

Both are related to ECF #323 of Case # 14-41678 (cec).

Note that the only change is the replacement of Appellees in the AMENDED CIVIL COVER SHEET and the Party #1 in the AMENDED NOTICE OF APPEAL.

DATED Sep. 3, 2015


ERIC RICHMOND
DEBTOR, PRO SE

To:

Michael Macco - Trustee
135 Pinelawn Road, #120 South
Melville, NY 11747

Jordan S. Katz
Attorneys for Select Portfolio Servicing
395 N. Service Road
Melville, NY 11747

RECEIVED

2015 SEP -4 P 4:30

CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF
NEW YORK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

AMENDED CIVIL COVER SHEET (for ECF # 323)

This form is REQUIRED for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. IN RE: Bankruptcy Case No. 14-41678(cec) Ad v. Pro. No. (if applicable) _____

Bankruptcy Appeal

APPELLANTS

Eric H. Richmond

APPELLEES

U.S. BANK NATIONAL ASSOCIATION/
SELECT PORTFOLIO SERVICING

ATTORNEYS (FIRM NAME, ADDRESS, TEL. NO.) ATTORNEYS (IF KNOWN)

Eric Richmond, Pro Se
227 4th Avenue
Brooklyn NY 11215
(646) 256-9613

JORDAN S. KATZ
Attorneys for SELECT PORTFOLIO
SERVICING
395 N. SERVICE RD.
MELVILLE, NY 11747 *SUITE 401
(631) 464-8105

BASIS OF JURISDICTION: Federal Question

CAUSE OF ACTION - 28:1334 Bankruptcy Appeal (Write brief statement of cause.)

The Bankruptcy court ignored several clear errors and manifest injustices presented in motion to reconsider.

In addition, the Bankruptcy court used a boiler plate denial of motion to reconsider without actually addressing anything, just acting in a fake dismissive way so as to appear to be above addressing the Appellants petty, meaningless issues.

In summation, the court failed to actually address most of Appellants arguments.

This failure to address anything in the motion to reconsider compels the Debtor to appeal to get any redress before the courts.

NATURE OF SUIT: 422 Bankruptcy

Appeal (801) RELATED CASE(S) IN
DISTRICT COURT, IF ANY

DISTRICT JUDGE _____

DOCKET NUMBER _____

CIVIL CASES ARE DEEMED RELATED IF PENDING CASE INVOLVED:

1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT
2. SAME ISSUE OF FACT OR GROWS OUT OF THE SAME TRANSACTION

3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT COPYRIGHT OR TRADEMARK

Date: 9/14/15 Signature of Attorney of Record: [Signature] [for Appellant Pro Se]

FOR COURT USE ONLY

APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CIVIL COVER SHEET, Bankruptcy Appeal (cont'd)

Did the cause of action arise in Nassau or Suffolk County? NO

If YES, please indicate which county: _____

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court. YES NO - X

Are you currently the subject of any disciplinary action(s) in this or any other state or federal court?

YES (If yes, please explain) NO - X

Please provide your bar code and e-mail address below. Your bar code consists of the initials of your first and last name and the last four digits of your social security number, or any other four-digit number registered by the attorney with the Clerk of Court. This information must be provided pursuant to local rule 11.1(b) of the local civil rules.

Attorney Bar Code: NONE

E-Mail Address: brooklynlyceum@gmail.com

Official Form 17A (12/14)

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In Re Eric H. Richmond,

Debtor

Chapter 13

No. 14-41678 (cec)

[Caption as in Form 16A, 16B, or 16D, as appropriate]

AMENDED NOTICE OF APPEAL AND STATEMENT OF ELECTION**Part 1: Identify the appellant(s)**

1. Name(s) of appellant(s):

Eric H. Richmond

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

☐ Plaintiff☐ Defendant☐ Other (describe) _____

For appeals in a bankruptcy case and not in an adversary proceeding.

☒ Debtor

Creditor

Trustee

Other (describe) _____

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from: _____

ORDER DENYING OBJECTION TO CLAIM

2. State the date on which the judgment, order, or decree was entered: July 21, 2015

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Party: _____

Attorney: _____

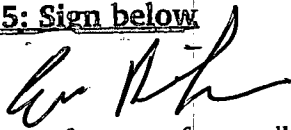
US BANKNATIONAL
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SELECT PORTFOLIO
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395 N. SERVICE Rd. SUITE 401
MELVILLE, NY 11747 / (631) 454-81052. Party: Michael MaccoAttorney: Michael J. MaccoTrustee135 Pinelawn Road - Suite #120 South
Melville, NY 11747
Phone: 631-549-7900**Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)**

Official Form 17A (12/14)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below



Date: 9/3/2015

Signature of attorney for appellant(s) (or
appellant(s) if not represented by an attorney)

Name, address, and telephone number of attorney
(or appellant(s) if not represented by an attorney):

Eric Richmond, Pro Se
227 4th Avenue
Brooklyn, NY 11215
646 256 9613

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

Eric H. Richmond

Chapter 13

Debtor.

Case No.: 14-41678 (CEC)

-----X
ORDER DENYING MOTION TO RECONSIDER OBJECTION TO PROOF OF CLAIM

WHEREAS, on April 7, 2014, Eric H. Richmond (the "Debtor"), filed for relief pursuant to chapter 13 of title 11 of the United States Code (the "Bankruptcy Code"); and

WHEREAS, on August 12, 2014, Select Portfolio Servicing, Inc. filed proof of claim #5 on behalf of U.S. National Bank ("U.S. Bank"), as trustee of Asset Backed Securities Corporation Home Equity Loan Trust, Series NC 2005-HE8, Asset Backed Pass-Through Certificates, Series NC 2005-HE8, which was amended on August 25, 2014 (the "Proof of Claim"); and

WHEREAS, on November 13, 2014, the Debtor filed a motion objecting to the Proof of Claim (the "Motion") [ECF No. 146]; and

WHEREAS, on January 16, 2015, U.S. Bank filed opposition to the Motion [ECF No. 182]; and

WHEREAS, on January 23, 2015, the Debtor filed an affirmation in support of the Motion [ECF No. 191]; and

WHEREAS, on March 17, 2015 the Court held a hearing on the Motion; and

WHEREAS, on April 3, 2015, the Debtor filed an affirmation in support of the Motion [ECF No. 220]; and

WHEREAS, on April 16, 2015, U.S. Bank filed an affirmation in opposition to the Motion [ECF No. 224]; and

WHEREAS, on May 16, 2015, the Debtor filed an affirmation in support of the Motion [ECF No. 234]; and

WHEREAS, on July 21, 2015, the Court entered an order and decision denying the Motion (respectively, the "Order" and the "Decision") [ECF Nos. 266 and 269]; and

WHEREAS, on August 4, 2015, the Debtor filed a motion to reconsider (the "Motion to Reconsider") [ECF No. 272]; and

Case 1-14-41678-cec Doc 290 Filed 08/07/15 Entered 08/07/15 14:52:56

WHEREAS, Federal Rule 59, made applicable to this matter pursuant to Bankruptcy Rule 9023, permits a party to make a motion "to alter or amend a judgment." Fed. R. Civ. P. 59(e); and

WHEREAS, the Second Circuit has held that "[t]he major grounds justifying reconsideration are an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice." Virgin Atl. Airways, Ltd. v. Nat'l Mediation Bd., 956 F.2d 1245, 1255 (2d Cir. 1992); and

WHEREAS, under the "clear error" standard, relief is "appropriate only when a court overlooks 'controlling decisions or factual matters that were put before it on the underlying motion' and which, if examined, might reasonably have led to a different result." Corrines v. Am. Physicians Ins. Trust, 769 F. Supp. 2d 584, 593-94 (S.D.N.Y. 2011) (quoting Eisemann v. Greene, 204 F.3d 393, 395 n.2 (2d Cir. 2000)); and

WHEREAS, "reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked – matters, in other words, that might reasonably be expected to alter the conclusion reached by the court." Shrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir. 1995); and

WHEREAS, the Debtor, in the Motion to Reconsider, fails to point to controlling decisions or factual matters that were put before the Court which were overlooked, and if examined, might reasonably have led to a different result; and

WHEREAS, the Court has considered the Debtor's arguments in the Motion to Reconsider and has determined that they are without merit, and that even if they fell within the proper grounds for a Rule 59(e) motion, which they do not, the Debtor's arguments would not alter the Court's reasoning or conclusion in the Decision;

NOW, THEREFORE, IT IS

ORDERED, that the Motion to Reconsider is denied.

Dated: Brooklyn, New York
August 7, 2015



Carla E. Craig
Carla E. Craig
United States Bankruptcy Judge


CERTIFICATE OF SERVICE

I certify that on September 3, 2015, I served the foregoing
AMENDED CIVIL COVER SHEET AND AMENDED NOTICE OF APPEAL
dated September 3, 2015 via the regular United States mail on
the following:

Michael Macco - Trustee
135 Pinelawn Road, #120 South
Melville, NY 11747

Jordan S. Katz
Attorneys for Select Portfolio Servicing
395 N. Service Road
Melville, NY 11747

Dated September 3, 2015

By: 
ERIC RICHMOND
DEBTOR, PRO SE